

EXHIBIT A

U.S. Department of Justice

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July 16, 2019

Honorable Elizabeth A. Wolford
United States District Judge
United States Courthouse, 100 State Street
Rochester, N.Y. 14614

Re: United States v. Robert Morgan et al, 18-CR-108-EAW
(Government's Motion for Interlocutory Sale of Eden Square)

Dear Judge Wolford:

Since the filing of the Motion for Interlocutory Sale, Docket No.71, the government has been advised that the purchasers of 9000 Old Station Road, Cranberry, Pennsylvania (Known as "Eden Square") will be able to move forward to closing pursuant to the terms in the Purchase and Sales Agreement, dated May 2, 2019.

Although the government's motion was made pursuant to Rule G (7)(b), the government notes that Rule G(7)(a) provides:

- a) **Preserving and Preventing Criminal Use of Property.** When the government does not have actual possession of the defendant property the court, on motion or on its own, may enter any order necessary to preserve the property, to prevent its removal or encumbrance, or to prevent its use in a criminal offense.


As such, it is the position of the government that the Court, given the information contained in the submissions to date, may enter the Proposed Order or an Order authorizing the interlocutory sale in advance of the hearing scheduled on July 22, 2019.

Thank you for your consideration.

Respectfully submitted,

JAMES P. KENNEDY, JR.
United States Attorney

BY:


MARY CLARE KANE
Assistant United States Attorney

MCK/mej
Enc.

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Via email

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

18-CR-108-EAW

ROBERT MORGAN, et al.

Defendants.

Re: 9000 Old Station Road,
Cranberry, Pennsylvania
(Known as "Eden Square")

PROPOSED INTERLOCUTORY SALE ORDER

The government's motion made, pursuant to Rule 32.2(b)(7) of the Federal Rules of Criminal Procedure and Rule G(7)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions ("Supplemental Rules") for an order authorizing the immediate interlocutory sale of real and personal property located at 9000 Old Station Road, Cranberry, Pennsylvania and known as Eden Square (hereinafter "Eden Square"), which is subject to forfeiture herein, is hereby granted.

IT IS HEREBY ORDERED:

1. That Eden Square will be sold pursuant to the terms set forth in this Order.
2. The Court designates Woods Oviatt Gilman LLP, 16 Squadron Blvd 1900 Bausch & Lomb Place, Rochester, New York, 14604, as the seller.

4. The sale of Eden Square (the “Sale”) shall proceed pursuant to the terms of the Purchase and Sale Agreement (the “PSA”) entered into between Cranberry Vista Apartments LLC (“Seller”), an LLC managed by Robert Morgan, and Freschcorn DE 1 LLC and Freshcorn DE2 LLC (“Purchaser”), Asher Handler as authorized signatory, previously executed as of May 2, 2019.

5. The debt and other obligations secured by the valid mortgage granted by Seller to Ladder Capital LLC (“Ladder”) with respect to Eden Square shall be paid to Ladder from the gross proceeds of the Sale. In addition, after such payment to Ladder, all reasonable and customary costs and expenses as set forth in the PSA shall be paid from the remaining Sale proceeds.

6. Any proceeds of the Sale remaining after making the payments described above (such amount, the “Excess Proceeds”) shall be held by the United States Marshals Service (“USMS”) in an interest-bearing account maintained by the USMS as a ‘substitute res’ (i.e., as a substitute for Eden Square), pending the conclusion of the forfeiture action. No sale proceeds shall be distributed, directly or indirectly, to Robert Morgan without further order of this Court.

7. During the pendency of the criminal case and prior to any ancillary proceedings herein, the parties will be permitted to engage in discussions toward reaching an agreement wherein a portion or all of the ‘substitute res’ relating to the sale of Eden Square may be used to reimburse any Notes Funds investors that have promissory notes associated with Eden Square, subject to Department of Justice approval.

8. To the extent that the Government seeks to forfeit or take other action against Eden Square following the Sale, any and all such action may only be taken against the ‘substitute res” or Excess Proceeds, and no action shall be taken against Eden Square itself or against the purchaser under the PSA or against such purchaser’s title insurance company.

Dated: Rochester, New York, July , 2019.

HONORABLE ELIZABETH A. WOLFORD
United States District Judge